

1 because we could not move forward as a company  
2 because we didn't know whether or not we were  
3 going to have cellular -- the right to offer  
4 cellular spectrum.

5 And, even at the end of the  
6 proceeding, we still lost certain spectrum  
7 rights. But, that -- we couldn't move forward  
8 until we resolved that issue and we -- we put  
9 a lot of time, energy and effort to make sure  
10 that we ended up with the licenses that we can  
11 utilize in the cellular fashion.

12 Q But -- and maybe you can educate  
13 me on this: The fact is the replacement  
14 spectrum hasn't been allocated to you yet, is  
15 that correct?

16 A That's correct.

17 Q Okay. So, how is it that you know  
18 that you're not going to have certain  
19 spectrum? I mean, I know obviously it's not  
20 the spectrum that you -- that there's an  
21 exchange taking place, but how do you know  
22 it's not the equivalent spectrum that you're

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 going to be getting, since you haven't  
2 received it yet?

3 A Well, I could just look at the  
4 plan and you know that -- okay. Now we're  
5 getting -- I mean, we're getting to the  
6 central issue of this whole thing. I don't  
7 know.

8 But, when you looked at the  
9 consensus party's plan or Nextel's plan or the  
10 plan that was on the table going into 2003 and  
11 into 2004, the plan that was originally  
12 submitted to the Commissioners for approval  
13 had -- was going to strip us of our ability to  
14 move into the cellular portion of the band.

15 We had met with the Commission  
16 several times and the last time I met with the  
17 Commission it was very clear that meeting with  
18 them and trying to, I guess, end up with any  
19 cellular spectrum rights, it's not going to  
20 happen.

21 So, in 2003 -- in the 2003 for a  
22 three-month period, drafted up our 150-page

1 response to their -- to the plan, and  
2 essentially in the plan it's reverse  
3 engineering. It's designed to have a certain  
4 outcome which is Nextel gets what it wants.

5 So they reverse engineered how to  
6 get there. Originally it was all based on the  
7 cellular deployment test. That way they can  
8 differentiate Nextel from anybody else. And  
9 the final plan comes pretty close to it.

10 The utilize what's called  
11 comparable -- comparable facilities, which  
12 really is kind of being misused in this case,  
13 because comparable facilities is something  
14 that's used by the Commission when they're  
15 auctioning green space.

16 So long -- okay. Here's spectrum  
17 they were going to auction, and everybody has  
18 a right to participate. So, if you're  
19 currently the licensee, you have the right to  
20 stay the licensee, because you can participate  
21 in the auction.

22 Now, if you don't and somebody

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 else wins, they have the right to move you to  
2 other facilities so long as it's comparable  
3 facilities.

4 And so, using that definition in  
5 the case, in the 800 MHz case, you'd already  
6 had an option, and so the net result, in my  
7 opinion, is a hierarchy of comparable  
8 facilities.

9 If you're Nextel it's this. If  
10 you're Nextel Partners -- which, by the way,  
11 wasn't putting up any money, total separate  
12 company -- gets treated the same and you had  
13 Southern Link and others, and then on down.

14 So, that's why -- you asked a  
15 question: How do I know. Well, I already  
16 know, is that the comparable facilities, we  
17 know what slot we're in.

18 Q Okay. But it's fair to say that  
19 you had control of licenses in the beginning  
20 of 2000, correct?

21 A Yes.

22 Q And the rebanding wasn't till --

1 what time did it start?

2 A The white paper came out the end  
3 of 2001, and so we were -- they were, you  
4 know, a little over a year into it when, you  
5 know, it really started taking off.

6 Q Okay. So, in 2001 you were forced  
7 to reevaluate, in effect, what you had to do?

8 A Well, no, and --

9 Q Is that what you're telling me?

10 A Oh, absolutely. Yes.

11 Q And in doing this reevaluation and  
12 also the comments that you filed which I think  
13 you indicated was 150 pages, did you employ a  
14 law firm to help you with that?

15 A No.

16 Q You did not. So, those comments  
17 were filed by PCSI directly?

18 A That's correct.

19 Q Okay. At any point in your  
20 dealings with the 800 MHz rebanding, did you  
21 employ any legal firm?

22 A Yes, we did, in the beginning

1 David filed, I think, our first two comments,  
2 but Chandu had passed away and we had very  
3 little money.

4 We didn't have the funds to hire  
5 him to do this. Besides the filing, the in-  
6 depth filing that we do costs a fortune and it  
7 was pretty much unrealistic to have a law firm  
8 do it.

9 Q Okay. And so who was responsible  
10 for that filing, the large filing?

11 A Me.

12 Q Okay. Did you actually draft it  
13 yourself?

14 A It was a collaboration of several  
15 different people to do that. The backbone of  
16 it was provided by CTO which was the hard data  
17 engineering.

18 I talked with David Kaufman, and  
19 having, you know, understood the, you know,  
20 where things were headed, we -- we agreed that  
21 if we're going to survive as a company, keep  
22 our cellular spectrum rights that we were

1 going to have to really file something above  
2 and beyond what anybody was willing at that  
3 point to really do, which is really dissect  
4 the plan and show how the plan didn't, you  
5 know, work the way it was advertized.

6 So, having gotten that message  
7 after meeting with the Enforcement Bureau, I  
8 came back and I told Pen that we're going to  
9 have to file something above and beyond what  
10 we've ever done before. And --

11 Q At what point in time is this?

12 A This is late 2003.

13 Q Okay.

14 A And --

15 Q Go ahead.

16 A We filed it in March, so all I  
17 remember is in the trade paper they were  
18 talking about how Nextel was having back-door  
19 discussions with the Commission, and I asked  
20 David, I said, "Well, everything's got to be  
21 ex parte. What's behind the, you know, closed  
22 door," you know.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1                   And I forget when that was. I  
2 think I met with them in November, maybe  
3 December.

4                   Q     Met with him, meaning David  
5 Kaufman?

6                   A     No, no. We met with WTD.

7                   Q     WTD.

8                   A     And --

9                   Q     So when you referred to the  
10 Enforcement Bureau --

11                   A     And David and I -- David  
12 participated with me in that meeting, David  
13 Kaufman.

14                   Q     And that was in 2003?

15                   A     That was in 2003, yes.

16                   Q     Okay. Who was it that originally  
17 retained David Kaufman? Who at -- I mean,  
18 there came a time when PCSI retained David  
19 Kaufman's services, is that right?

20                   A     Yes.

21                   Q     Okay. Who was -- who directly,  
22 you know, entered into the contract?



1 A Me.

2 Q "Me," meaning you?

3 A Yes. That Austin. Charles  
4 Austin.

5 Q Okay. And how did you do that?  
6 Did you fly to Washington? What did you do  
7 and how did you come in contact with David  
8 Kaufman to begin with?

9 A Oh, good going. You know, I don't  
10 remember. Let me -- well, David introduced me  
11 to Alex Calderon, but where -- I --

12 Q All right.

13 A I don't recall. The first time  
14 that we utilized David, David -- you know, I  
15 don't -- I don't recall.

16 Q But was the initial contact  
17 through you? Were you the one who initially  
18 found David Kaufman, if you recall?

19 A Are you talking about who did the  
20 search and who -- I don't recall. I don't  
21 recall. It may have been a recommendation  
22 from Pen, you know, to utilize David, although

1 I don't think that Pen had ever utilized  
2 Kaufman before, but he knew of him.

3 And I don't recall -- it may have  
4 been Chandu Patel, you know, because we were--  
5 I don't recall.

6 Q And in the initial filings that  
7 David Kaufman made, who was it at PCSI who  
8 dealt with him? In other words, you indicated  
9 he filed some initial comments for you in the  
10 rebanding proceeding.

11 A We are in the 800 MHz rebanding  
12 and --

13 Q Yes.

14 A -- David's --

15 Q You said David initially filed for  
16 you --

17 A Oh, yes.

18 Q -- and then after a while it  
19 became too expensive for him to do it, and you  
20 --

21 A Right.

22 Q -- did it yourself?

1 A Yes.

2 Q In those initial filings, who was  
3 it who dealt with David Kaufman? Was it you?

4 A Yes.

5 Q Okay.

6 A And I'm sure that I involved Pen  
7 in the process as well. And even Chuck  
8 Guskey, I believe, at the time.

9 Q Okay. In what way did you involve  
10 them, if you recall?

11 A You know, I probably got on a  
12 conference call, discussed with Dave what was  
13 going on.

14 Q So the two of you or the three or  
15 the four of you would all be together on a  
16 conference call?

17 A I'm sure that happened at times.  
18 And then I would work with David editing and  
19 drafting. Although David, for the most part,  
20 you hire him to do something and he drafts it,  
21 he does -- you know, there's not much when you  
22 hire him for the service. There was not a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 whole lot of work on our part.

2 Q But once you gave him an  
3 assignment there wouldn't be a lot of back and  
4 forth where he would be taking it from there,  
5 nailing it.

6 A There was always -- you know,  
7 there was always a little bit of that, but for  
8 the most part with David, you know, he nails  
9 it pretty good.

10 Q Were there any other legal service  
11 providers that PCSI employed, to your  
12 recollection, law firms, for lack of a better  
13 term?

14 A A number of them over the years.

15 Q Can you give us a few?

16 A Yes.

17 Q Would you?

18 A Let me see. Weil, Goshal & Manges  
19 in Dallas. Well, Patton Boggs, here recently.  
20 Hallett & Perrin. Brown, Neitert & Kaufman.  
21 Rini Coran.

22 Q What kinds of things did Hallett &

1 Perrin do for PCSI?

2 A They are a corporate securities --  
3 or corporate law firm and corporate  
4 securities.

5 Q So, what --

6 A In offering -- offering documents,  
7 corporate books and records.

8 Q They help you keep the corporate  
9 books and records?

10 A Yes.

11 Q And did they issue -- did they do  
12 the work for issuing additional shares of  
13 stock and that kind of stuff?

14 A We do our own stock book. It's  
15 cheaper that way, but we work closely with  
16 them on doing that. Linda works with them.

17 Q Okay. So, if you're doing most of  
18 that yourself, who specifically at PCSI is  
19 doing that? In other words, if you --

20 A Linda.

21 Q Linda?

22 A Yes. That was Linda and myself, I

1 would say.

2 Q All right. What about accounting  
3 services for executive searches, that kind of  
4 thing, did you ever employ outside companies  
5 to help you do that?

6 A Accounting, we've utilized VCFO  
7 and --

8 Q Would you spell that out for --

9 A Yes. V-C-F-O.

10 Q You mean, it's not an acronym,  
11 it's --

12 A That's the name of the firm.

13 Q VCFO?

14 A Yes. And --

15 Q They are an accounting firm?

16 A Yes. And Woodley -- Woodley Penn.

17 Q Okay.

18 A Accounting firm.

19 Q Did you contact them yourself, or  
20 did somebody do that for you?

21 A We're trying to use -- and again  
22 there I go with the "we." Who is "we"?

1 Q You're way ahead of me.

2 A I was contacting -- I had met with  
3 an accounting firm several years earlier. I'm  
4 tired and I'm having a hard time pulling names  
5 but, anyway, it was coming down to the point  
6 where, if you remember, Sarbanes-Oxley just  
7 got put into place and they couldn't utilize  
8 us.

9 They recommended us to Woodley  
10 Penn and that's how Woodley Penn came about,  
11 and we had somebody come out from them and  
12 Linda and I interviewed and I -- I signed the  
13 contract. So, I'm ahead of you now.

14 Q Okay. All right. That's your  
15 accounting service. What about executive  
16 searches?

17 A Never utilized an executive search  
18 firm.

19 Q Okay. And if somebody else was to  
20 perform any of that kind of administrative  
21 work for you, did you oversee them, and who  
22 would it have been?

1 In other words, was there somebody  
2 else who would operate in your stead if you  
3 weren't available or, you know, just didn't  
4 have time for that particular job, in terms of  
5 contacting an accounting service or some  
6 outside, you know, service company, even Alex  
7 Calderon's company, any of those companies  
8 that you would utilize, you know, on a day-to-  
9 day basis?

10 A I'm not --

11 Q Who would --

12 A -- too sure what you're asking.

13 Q Okay.

14 A I'm not sure what you're asking.

15 Q I can rephrase it.

16 A All right.

17 Q That's perfectly legitimate.

18 A Okay.

19 Q Who would stand in your stead in  
20 the event that you -- that the services of  
21 some outside company such as accounting or law  
22 firm or an engineering firm needed to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



1 contacted, needed to be dealt with, who would  
2 stand in your stead to -- is it Linda McClain,  
3 or is it --

4 A Well, if we're talking about  
5 accounting, Linda is actually the front person  
6 once the relationship is established and I --  
7 I interject when need, but she deals with them  
8 on a day-to-day basis. If it's --

9 Q What about law firm?

10 A If it's a law firm, say, Hallett &  
11 Perrin or David, it would typically be myself  
12 -- well, Hallett & Perrin -- depending on the  
13 project, Linda and Michael or Pen or myself.

14 FCC law firm, depending on the  
15 project, it could be Alex Calderon from an  
16 engineering standpoint. Several of the  
17 filings required engineering. It would be Pen  
18 or myself.

19 Obviously myself, but getting back  
20 to your question, in my stead, that's -- it  
21 wouldn't necessarily, if I couldn't --  
22 everybody had their function, and if I -- if

1 it was -- depending on the project and the  
2 expertise, I would set up Pen to work and to  
3 bring them up to speed on whatever needed to  
4 be brought up on, on a particular point.

5 Kind of utilize strengths and --  
6 and to push a project, keep it moving forward.

7 Q All right. You know what, it's  
8 almost twelve. Do you want to take a break at  
9 this point?

10 A I'm good to go.

11 Q You're good to go. You want to  
12 continue?

13 (Off the record comments.)

14 THE WITNESS: You're not getting  
15 tired over there, are you?

16 MR. OSHINSKY: No. I'm good.  
17 I've got plenty more.

18 THE WITNESS: Okay.

19 BY MR. OSHINSKY:

20 Q I believe you said it was Michelle  
21 Bishop who did the actual filing with the FCC  
22 for the auction in 2000, is that right?

1 A Yes.

2 Q And is she still employed with  
3 PCSI?

4 A No.

5 Q And when did her employment end?

6 A In -- dates. 2001 she was no  
7 longer working in the office on a day-to-day  
8 basis. She stayed on as corporate secretary  
9 until we were able to replace her with Linda  
10 McClain.

11 But, in terms of salaried  
12 employee, it ended in 2001. I'd say May of  
13 2001.

14 Q Okay. And after that who would do  
15 the filing with the FCC?

16 A All the filings that we had done  
17 after that would be done by myself.

18 Q So, at that point, you're able to  
19 electronically file with the FCC?

20 A We became -- yes. Oh, yes.

21 Q So was it you who actually filed  
22 the long set of comments that you did the 150--

1 page comment?

2 A Yes.

3 Q It was. You electronically filed?

4 A Yes.

5 Q In 2006, we mentioned this  
6 briefly, the initial letter from the  
7 Commission went out or from the Bureau, I  
8 should say, the letter of inquiry went out.

9 Who was responsible for  
10 marshalling the documentation and the  
11 information needed to respond to that?

12 A Can you repeat that question.

13 Q The Commission, just to give you a  
14 little -- just to refresh your memory, the  
15 Commission sent two letters of inquiry.

16 A More than that.

17 Q One in June of 2006, one in  
18 December of 2006. Okay. And my question is--  
19 and my second question is: Who was  
20 responsible for gathering the information --

21 A Me.

22 Q -- required to answer the first

1 letter in June of 2006?

2 A Me.

3 Q It was you. And you were also  
4 responsible for gathering the information to  
5 respond to -- check that. I'm sorry. I'm  
6 getting ahead of myself.

7 So you were the one who put  
8 together the information for the first letter  
9 of inquiry, the response?

10 A Yes. Let's be specific. Yes. I  
11 mean, you could pretty much say -- well, okay.  
12 The first LOI, in reading -- and I don't  
13 remember which one it was, my responsibility  
14 across the board on everything, but  
15 specifically on this project, like any other,  
16 my responsibility.

17 I don't know if it was the first  
18 or second, but there was a bit of information  
19 at that time that they were asking that only  
20 Pendleton Waugh would have known, because they  
21 were asking -- in the beginning they treated  
22 us as, you know, one big entity, and so --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 yes, I gathered it, and if I needed to gather  
2 it from Pen, I gathered it from Pen.

3 But, the decision was made early  
4 on to not involve Pen at all unless needed on  
5 any of the responses to the LOI's, either --  
6 either one, unless they were specifically  
7 asking something that -- of him, or if he had  
8 specific information and knowledge of  
9 something that I didn't have.

10 Q Was there a reason for that?

11 A Yes, there is a reason. What that  
12 is, I don't remember, but yes.

13 Q You cannot recall the reason why  
14 you would have excluded him from participating  
15 in the response?

16 A Well, let me say this: It was --  
17 we might be getting into client-attorney  
18 privilege at that point. It may have been  
19 advice from attorneys.

20 Q Well, you can say if it was on  
21 advice from counsel. You can say that.

22 A Yes. Maybe advice from counsel.

1 I don't -- I don't recall --

2 Q Would that be equally applicable  
3 to the June -- both the June and December  
4 responses?

5 A That is correct, yes.

6 Q Okay. Now, did you also decide  
7 what documents were selected in response to  
8 provide to the Bureau as a part of the  
9 response?

10 A Yes.

11 Q You did. Did you personally do  
12 all the documents that were forwarded to the  
13 Bureau, if you recall?

14 A No. I had Michael Waller pull the  
15 documents that were needed.

16 Q Did you then review the documents  
17 that he pulled?

18 A Yes.

19 Q Okay. And so -- let me ask you  
20 this: Were you represented by counsel at that  
21 point when you responded to the first --

22 A The first LOI was -- we were

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 represented by Patton Boggs, and then the  
2 second one we were represented -- we had  
3 Charles Ryan representing at the time.

4 Q Okay. And is it fair to say that  
5 the bottom line determination of which  
6 documents to forward was yours, rather than  
7 the law firm's? Is that a fair  
8 characterization?

9 A Yes. Yes, that's fair.

10 Q Okay. Can you tell us how you --

11 A Well, we --

12 Q Yes, go ahead.

13 A I am wondering why you are asking  
14 that question. I don't remember what  
15 documents were provided.

16 Q No, no. I'm not asking you the  
17 specific documents. I'm asking you the -- the  
18 manner of your contact with your attorneys.  
19 Was it that you forwarded documents that you  
20 felt were responsive to the request in the  
21 letters?

22 A Right. Well, yes. I'm sure I was



1 on the phone with the attorneys and we  
2 discussed the nature of the LOI's and they  
3 advised on how to respond to it and we pulled  
4 the documents that you had asked for and we  
5 forwarded it.

6 Q You're really not going to like  
7 this question. And that is: What kind of  
8 rationale did you use in deciding which  
9 documents should go to the -- should be  
10 forwarded to your counsel or forwarded to the  
11 Bureau?

12 Was there -- is there a general  
13 way of characterizing your selection process  
14 of those documents?

15 A Oh. Not -- you know, I don't  
16 remember, and I'd have to take a look at the  
17 two LOI's again to determine and refresh my  
18 memory as to what was asked and what we  
19 provided in order to answer that question.

20 Q All right. We'll think about  
21 whether that's going to be necessary or not.  
22 Okay.